

JANICE K. BREWER

Governor



HERBERT R. GUENTHER

Director

## ARIZONA DEPARTMENT OF WATER RESOURCES

3550 North Central Avenue, Second Floor  
PHOENIX, ARIZONA 85012-2105  
(602) 771-8500

March 30, 2009

Via US Mail

Richard E. Bunger  
REB Properties, LLC, an Arizona limited liability company  
10575 N. 114th Street  
Suite 107  
Scottsdale, AZ 85259

**Water Report 53-700364.0000**

**Subdivision Name:** Dutch Joe Ranch

**Owner:** REB Properties, LLC, an Arizona limited liability company

**Number of lots:** 39

**County:** Coconino  
Township 13 North, Range 13 East,  
Section 27

**Annual Water Demand:** 99.92 acre-feet/year

**Water provided by:** DJR Ranchowner's Association

**Water Type:** Groundwater

**Current water depth:** 918 ft. below land surface

**Estimated 100-year depth:** 1026 ft. below land surface

**Current decline rate:** 0 ft. per year

**Basin:** Little Colorado River Plateau

Dear Mr. Bunger,

Pursuant to A.R.S. § 45-108, the Department of Water Resources has reviewed the available information pertaining to the water supply for the above-referenced subdivision. This letter constitutes the Department's report on the subdivisions water supply as required by A.R.S. § 45-108(A).

Adequacy of the 100-year water supply was reviewed by the Department with regard to physical, legal and continuous availability, water quality, and financial capability. Information available to the Department indicates that the applicant has satisfied the adequate water supply requirements as set forth in A.A.C. R12-15-701 *et seq.* Therefore, the Department of Water Resources finds the water supply to be adequate to meet the subdivision's projected needs. Any material change to the subdivision plat or its water supply plans may invalidate this decision. See A.A.C. R12-15-708.

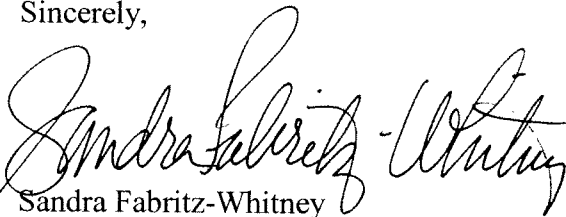
This letter is being forwarded to you as required by A.R.S. § 45-108. This law requires the developer to hold the recordation of the subdivision's plat until receipt of the Department's report on the subdivision's water supply. By copy of this report, the Coconino County Recorder is being officially notified of the developer's compliance with the law. Because of the possibility that a future court proceeding could result in a legal determination that water withdrawn from wells in this area is surface water, the Department recommends that your office include the following statement in all promotional material and contracts for sale of lots in the subdivision:

**“Pursuant to A.R.S. § 45-108 and A.A.C. R12-15-701 *et seq.*, the Department has determined that the water supply for the Dutch Joe Ranch subdivision is adequate, *i.e.* that the water supply is physically, continuously and legally available to satisfy the subdivision’s annual estimated water demand, that the water supply is of suitable water quality, and that the applicant has demonstrated the financial capability to construct adequate delivery, storage and treatment works. However, the legal availability of the water withdrawn from wells in this area may be the subject of court action in the future as part of a determination of surface water rights. Whether future court action will have an effect on the legal availability of the water supply for the proposed subdivision cannot be determined at this time. “**

Pursuant to A.R.S. § 41-1092.03, the Department is notifying you that the Director’s determination and decision to issue this Water Report is an appealable agency action. You are entitled to appeal this action. If you wish to appeal this action, you must file a written appeal within thirty (30) days from receipt of this letter. I am providing you with a summary of the appeal process and an appeal form, should you elect to pursue this option.

If you have any questions, please contact Richard Obenshain at 602-771-8622.

Sincerely,



Sandra Fabritz-Whitney  
Assistant Director  
Water Management Division

cc: Via electronic mail:  
Cindy Ferrin, Arizona Department of Real Estate  
Coconino County Planning and Zoning  
Coconino County Recorder  
Ed Richardson

# **ARIZONA DEPARTMENT OF WATER RESOURCES**

## **NOTICE OF RIGHT TO APPEAL AGENCY ACTION**

### **I. Right to Request Hearing**

You have the right to request a hearing on the agency action described in the enclosed letter. To request a hearing, you must file a notice of appeal with the Docket Supervisor, Arizona Department of Water Resources, 3550 North Central Avenue, Fourth Floor, Phoenix, Arizona 85012 within thirty (30) days from the date of your receipt of this letter. A Notice of Appeal form is enclosed. Pursuant to A.R.S. § 41-1092.03, the grounds for appeal by a party who will be adversely affected by the agency action and who exercised a right to comment on the action provided by law or rule is limited to the issues raised in the party's comments.

If you file a timely notice of appeal, a hearing will be scheduled and you will be given written notice of the time and place for the hearing at least thirty (30) days before the hearing date. The date scheduled for the hearing may be advanced or delayed on the agreement of the Department and the parties to the action or on a showing of good cause. **If no party files a notice of appeal within thirty days from the date of receipt of the enclosed letter, the agency action described in the letter will become final and will not be subject to judicial review.**

### **II. Right to Request Informal Settlement Conference**

If you file a timely notice of appeal as described above, you will have the right to request an informal settlement conference. A request for an informal settlement conference must be in writing and must be filed with the Docket Supervisor, Arizona Department of Water Resources, 3550 North Central Avenue, Fourth Floor, Phoenix, Arizona 85012 not later than twenty (20) days before the hearing date. The enclosed Notice of Appeal form includes a place for you to request an informal settlement conference. If you file a timely request for an informal settlement conference, the Department will give you written notice of the time and place for the settlement conference. An informal settlement conference must be held within fifteen (15) days after the request is filed.

If an informal settlement conference is held, a person with the authority to act on behalf of the Department will represent the Department at the conference. The parties participating in the settlement conference will waive their right to object to the participation of the Department's representative in the final administrative decision. Statements, either written or oral, made by the appellant at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations, are inadmissible in any subsequent administrative hearing.

### **III. Agency Contact Person**

If you have any questions regarding the appeals process, or the process for requesting an informal settlement conference, please contact Kathleen Donoghue, Docket Supervisor, at (602) 771-8472.

# ARIZONA DEPARTMENT OF WATER RESOURCES

## NOTICE OF APPEAL OF AGENCY ACTION

1. Party filing this notice of appeal:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone No: (\_\_\_\_) \_\_\_\_\_

2. The following action of the Department of Water Resources is being appealed:  
(Please attach a copy of the letter which advised you of the action.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. The following is a concise statement of the reason(s) for the appeal:  
(If you need additional space, please attach a separate page. **Note:** Pursuant to A.R.S. § 41-1092.03, the grounds for appeal by a party who will be adversely affected by an agency action and who exercised a right to comment on the action provided by law or rule is limited to the issues raised in the party's comments.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Pursuant to A.R.S. § 41-1092.06, the appealing party may request an informal settlement conference. Such a request must be made no later than 20 days before the hearing. If an informal settlement conference is requested, the conference will be held within 15 days after the request is received by the agency.

The person filing this notice of appeal requests an informal settlement conference at this time  
(check one):

Yes \_\_\_\_\_ No \_\_\_\_\_

**Note:** A person who participates in an informal settlement conference waives the right to object to the participation of the Department's representative in the final administrative decision. A.R.S. § 41-1092.06(B).

5. \_\_\_\_\_ Date: \_\_\_\_\_  
Signature of filing party

\_\_\_\_\_  
Print or type name

\_\_\_\_\_  
Include title if applicable

**FILING OF FORM:** A party who desires to file a notice of appeal must complete this form and file it with the Docket Supervisor, Arizona Department of Water Resources, 3550 North Central Avenue, Fourth Floor, Phoenix, Arizona 85012 within thirty (30) days after the date the party received notice of the appealable agency action.